DOCUMENTS

RELATING TO

The affairs of Rhode Island.

STATEMENT

Submitted by Messrs. Whipple, Francis, and Potter, to the President of the United States.

The undersigned, having been deputed by Samuel W. King, the Governor of the State of Rhode Island, to lay before you the present alarming condition in which the people of the State are placed, and to request from you the adoption of such prudential measures as, in your opinion, may tend to prevent domestic violence, beg leave, most respectfully, to state the following, among the leading facts, to which your attention is more particularly invited :

That the people of Rhode Island have no fundamental law except the charter of King Charles the Second, granted in 1663, and the usage of the Legislature under it. Legislative usage under their charters has been decided by the Supreme Court of the United States to be the fundamental law, both in Connecticut and Rhode Island.

That, from the date of the Rhode Island charter down to the year 1841, a period of nearly two hundred years, no person has been allowed to vote for town or State officers unless possessed of competent estates, and admitted free in the several towns in which they resided.

That, since the statute of 1723, no person could be admitted a freeman of any town unless he owned a freehold estate of the value fixed by law, (now one hundred and thirty-four dollars,) or was the eldest son of such a freeholder.

That, until the past year, no attempt has been made, to our knowledge, to establish any other fundamental law, by force, than the one under which the people have lived for so long a period.

That, at the January session of the Legislature in 1841, a petition, signed by five or six hundred male inhabitants, praying for such an extension of suffrage as the Legislature might, in their wisdom, deem expedient to propose, was presented.

That, influenced by that petition, as well as by other considerations, the Legislature, at that session, requested the qualified voters, or freemen, as they are called with us, to choose delegates at their regular town meetings to be holden in August, 1841, for a convention, to be holden in November, 1841, to frame a written constitution.

That the result of the last meeting of this legal convention, in February, 1842, was the constitution accompanying this statement, marked —, which, in case of its adoption by the people, would have been the supreme law of the State.

Most of the above facts are contained in the printed report of a numerous committee of the Legislature, at their session in March, 1842, which report was adopted by the Legislature.

That, in May, 1841, after said legal convention had been provided for by the Legislature, and before the time appointed for the choice of delegates by the qualified voters, (August, 1841,) a mass meeting was held by the friends of an extension of suffrage at Newport, at which meeting a committee was appointed, called the State Committee, who were authorized by said mass meeting to take measures for calling a convention to frame a constitution.

That this committee, thus authorized, issued a request for a meeting of the male citizens in the several towns to appoint delegates to the proposed convention.

That meetings, of unqualified voters principally, (as we believe,) were accord-

ingly holden in the several towns, unauthorized by law, and contrary to the invariable custom and usage of the State from 1663 down to that period. That the aggregate votes appointing the delegates to that convention was, according to their own estimate, about 7,200; whereas the whole number of male citizens, over twenty-one years of age, after making a deduction for foreigners, paupers, &c., was, also according to their own estimate, over 22,000.

That this convention, thus constituted, convened in Providence, in October, 1841, and the constitution called the "people's constitution" was the result of their deliberations.

That, at subsequent meetings of portions of the people, in December, 1841, by the authority of this convention alone, (elected, as its delegates had been, by about one-third of the voters, according to their standard of qualification,) all males over twenty-one years of age were admitted to vote for the adoption of the people's constitution. That these meetings were not under presiding officers whose legal duty or legal right it was to interpose any check or restraint as to age, residence, property, or color.

By the fourteenth article of their constitution it was provided, that "This constitution shall be submitted to the people, for their adoption or rejection, on Monday, the 27th of December next, and on the two succeeding days." * * "And every person entitled to vote as aforesaid, who, from sickness *or other causes*, may be unable to attend and vote in the town or ward meetings assembled for voting upon said constitution, on the days aforesaid, is requested to write his name on a ticket, and to obtain the signature upon the back of the same of a person who has given in his vote as a witness thereto. And the moderator or clerk of any town or ward meeting, convened for the purpose aforesaid, shall receive such vote on either of the three days next succeeding the three days before named for voting for said constitution."

During the first three days, about nine thousand votes were received from the hands of the voters in the open town meetings. By the privilege granted to every and all the friends of the constitution, of bringing into their meetings the NAMES of voters during the three following days, five thousand votes more were obtained, making an aggregate of about fourteen thousand votes.

This constitution, thus originating and thus formed, was subsequently declared by this convention to be the supreme law of the land. By its provisions, a Government is to be organized under it, by the choice of a Governor, Lieut. Governor, Senators and Representatives, on the Monday preceding the third Wednesday in April, 1842.

By the provisions of the "landholders' constitution," as the legal constitution is called, every white male native citizen, possessing the freehold qualification, and over twenty-one years of age, may vote, upon a residence of *one* year; and without any freehold, may vote, upon a residence of two years, except in the case of votes for town taxes, in which case the voter must possess the freehold qualification, or be taxed for other property of the value of $150.

By the "people's constitution," "every white male citizen of the United States of the age of twenty-one years, who has resided in this State for *one* year, and in the town where he votes for six months," shall be permitted to vote, with the same exception as to voting for town taxes as is contained in the other constitution.

The provision, therefore, in relation to the great subject in dispute, the elective franchise, is substantially the same in the two constitutions.

On the 21st, 22d, and 23d March last, the legal constitution, by an act of the Legislature, was submitted to all the persons who, by its provisions, would be entitled to vote under it, after its adoption, for their ratification. It was rejected by a majority of 676, the number of votes polled being over 16,000. It is believed that many freeholders voted against it, because they were attached to the old form of government, and were against any new constitution whatever. Both parties used uncommon exertions to bring all their voters to the polls; and the result of the

vote was, under the scrutiny of opposing interests, in legal town meetings, that the friends of the people's constitution brought to the polls probably not over 7,000 to 7,500 votes. The whole vote against the legal constitution was about 8,600. If we allow 1,000 as the number of freeholders who voted against the legal constitution, because they are opposed to any constitution, it would leave the number of the friends of the people's constitution 7,600, or one-third of the voters of the State under the new qualification proposed by either constitution.

It seems incredible that there can be 14,000 friends of the people's constitution in the State, animated as they are by a most extraordinary and enthusiastic feeling, and yet, upon this trial, in the usual open and fair way of voting, they should have obtained but about 7,600 votes.

The unanimity of the subsequent action of the Legislature, comprehending as it did both the great political parties—the House of Representatives giving a vote of sixty in favor of maintaining the existing Government of the State, and only six on the other side, with a unanimous vote in the Senate—the unanimous and decided opinion of the supreme court declaring this extraordinary movement to be illegal in all its stages, a majority of that court being of the democratic party, with other facts of a similar character, have freed this question of a mere party character, and enabled us to present it as a great constitutional question.

Without presuming to discuss the elementary fundamental principles of government, we deem it our duty to remind you of the fact that the existing Government of Rhode Island is *the* Government that adopted the Constitution of the United States, became a member of this Confederacy, and has ever since been represented in the Senate and House of Representatives. It is at this moment the existing Government of Rhode Island, both de facto and de jure, and is the only Government in that State entitled to the protection of the Constitution of the United States.

It is that Government which now calls upon the General Government for its interference; and even if the legal effect of there being an ascertained majority of unqualified voters against the existing Government was as is contended for by the opposing party, yet, upon their own principle, ought not that majority, in *point of fact*, to be clearly ascertained, not by assertion, but by proof, in order to justify the General Government in withdrawing its legal and moral influence to prevent domestic violence?

That a domestic war of the most ferocious character will speedily ensue, unless prevented by a prompt expression of opinion here, cannot be doubted. In relation to this we refer to the numerous resolutions passed at meetings of the friends of the people's constitution, and more especially to the Cumberland resolutions, herewith presented, and the affidavits marked —, and to repeated expressions of similar reliance upon the judgment of the Chief Magistrate of the nation.

All which is respectfully submitted by

JOHN WHIPPLE,
JOHN BROWN FRANCIS,
ELISHA R. POTTER.

To his Excellency JOHN TYLER,
President of the United States.

To his Excellency the Governor of Rhode Island:

SIR: Your letter, dated the 4th instant, was handed me on Friday by Mr. Whipple, who, in company with Mr. Francis and Mr. Potter, called upon me on Saturday, and placed me, both verbally and by writing, in possession of the prominent facts which have led to the present unhappy condition of things in Rhode Island—a state of things which every lover of peace and good order must deplore. I shall not adventure the expression of an opinion upon those questions of domestic policy

which seem to have given rise to the unfortunate controversies between a portion of the citizens and the existing Government of the State. They are questions of municipal regulation, the adjustment of which belongs exclusively to the people of Rhode Island, and with which this Government can have nothing to do. For the regulation of my conduct, in any interposition which I may be called upon to make, between the Government of a State and any portion of its citizens who may assail it with domestic violence, or may be in actual insurrection against it, I can only look to the Constitution and laws of the United States, which plainly declare the obligations of the Executive Department, AND LEAVE IT NO ALTERNATIVE AS TO THE COURSE IT SHALL PURSUE.

By the fourth section of the fourth article of the Constitution of the United States it is provided that the United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion; and on the application of the Legislature, or Executive, when the Legislature cannot be convened, *against domestic violence.* And by the act of Congress approved on the 28th of February, 1795, it is declared that, in case of an insurrection in any State *against the Government thereof*, it shall be lawful for the President of the United States, upon application of the Legislature of such State, or of the Executive, when the Legislature cannot be convened, to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection. By the third section of the same act it is provided that, whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse, and retire peaceably to their respective abodes, within a reasonable time.

By the act of March 3, 1807, it is provided "that in all cases of insurrection or obstruction to the laws, either of the United States or any individual State or Territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States as shall be judged necessary, having first observed all the prerequisites of the law in that respect."

This is the first occasion, so far as the Government of a State and its people are concerned, on which it has become necessary to consider of the propriety of exercising these high and most important constitutional and legal functions. By a careful consideration of the above-recited acts of Congress, your excellency will not fail to see that no power is vested in the Executive of the United States to anticipate insurrectionary movements against the Government of Rhode Island, so as to sanction the interposition of the military authority, but that there must be an actual insurrection, manifested by lawless assemblages of the people, or otherwise, to whom a proclamation may be addressed, and who may be required to betake themselves to their respective abodes. I have, however, to assure your excellency that, should the time arrive (and my fervent prayer is that it may never come) when an insurrection shall exist against the Government of Rhode Island, and a requisition shall be made upon the Executive of the United States to furnish that protection which is guarantied to each State by the Constitution and laws, I SHALL NOT BE FOUND TO SHRINK FROM THE PERFORMANCE OF A DUTY WHICH, WHILE IT WOULD BE THE MOST PAINFUL, IS AT THE SAME TIME THE MOST IMPERATIVE. I have also to say that, in such a contingency, the Executive could not look into real or supposed defects of the existing Government, in order to ascertain whether some other plan of government proposed for adoption was better suited to the wants, and more in accordance with the wishes of any portion of her citizens. To throw the Executive power of this Government into any such controversy would be to make the President the armed arbitrator between the people of the different States and their constituted authorities, and might lead to an usurped power, dangerous alike to the stability of the State Governments and the liberties of the people.

It will be my duty, on the contrary, to respect the requisitions of that Government which has been recognised as the existing Government of the State through all time past, until I shall be advised, in regular manner, that it has been altered and abolished, and another substituted in its place, by legal and peaceable proceedings, adopted and pursued by the authorities and people of the State.

Nor can I readily bring myself to believe that any such contingency will arise as shall render the interference of this Government at all necessary. The people of the State of Rhode Island have been too long distinguished for their love of order and of regular government to rush into revolution, in order to obtain a redress of grievances, real or supposed, which a Government under which their fathers lived in peace would not in due season redress. No portion of her people will be willing to drench her fair fields with the blood of their own brethren, in order to obtain a redress of grievances which their constituted authorities cannot, for any length of time, resist, if properly appealed to by the popular voice. None of them will be willing to set an example, in the bosom of this Union, of such frightful disorder, such needless convulsions of society, such danger to life, liberty, and property, and likely to bring so much discredit on the character of popular Governments. My reliance on the virtue, intelligence, and patriotism of her citizens, is great and abiding, and I will not doubt but that a spirit of conciliation will prevail over rash counsels; that all actual grievances will be promptly redressed by the existing Government; and that another bright example will be added to the many already prevailing among the North American republics of change without revolution, and a redress of grievances without force or violence.

I tender to your excellency assurances of my high respect and consideration.

JOHN TYLER.

WASHINGTON, *April* 11, 1842.

LETTER FROM MR. WHIPPLE.

To His Excellency SAMUEL W. KING,
Governor of Rhode Island:

We transmit to your excellency the letter of the President of the United States, in reply to yours of the 4th instant, in relation to our revolutionary movements in Rhode Island. You will observe, with pleasure, that the opinion of the President is firm, clear, and decided. It was expressed after a statement of facts, accompanied by a number of documents from both parties, and is in accordance with the unanimous opinion of the members of the cabinet, and we believe with that of every member of Congress to whom the case has been fairly stated.

At the same time we observe that great and unwearied pains have been taken by the insurrectionists to forestall public opinion, by loading the newspapers in the different cities with statements so unblushingly false, that we refer to your Excellency the expediency of adopting some mode of giving publicity to the truth. They represent, in most of the newspapers that have come under our observation, that the party in favor of the people's constitution *has a large majority* of the whole people in its favor, and that a very small portion of the people have pertinaciously adhered to the old freehold qualification, thus rendering a peaceable and legal change of Government wholly impracticable. This is their case, as they have caused it to be stated in most of the cities in the Union. They seek to justify revolution upon the facts that a majority of the 22,000 voters of the State are in favor of their constitution, and that there is no other mode of redress than by revolution.

Your excellency well knows that both these statements are wholly false. That party brought every man to the polls who was in favor of their constitution, in order to vote against the *legal* constitution, in March last. The whole number of

votes polled against it was 8,600, or thereabouts. It is well known that at least 1,000 freeholders voted against the legal constitution, not because they were in favor of the people's constitution, but because, being opposed to any extension of suffrage, they were against both constitutions. Deduct these 1,000 votes, and there remain but 7,600 in favor of the people's constitution, *or about one-third of the voters in the State.*

But their case would stand upon no better ground were their majority clear and undisputed. Nothing but *necessity* will justify revolution. This they admit, and therefore they attempt, in their different statements, in various parts of the Union, to impress upon the public mind another gross and malicious falsehood, which is, that the freeholders refuse an extension of the elective franchise; whereas every Rhode Island man knows that there is no substantial difference between the extent of that franchise under the legal constitution, proposed to the people by the *convention of freeholders*, and the extent of the same franchise provided for in the people's constitution. Both constitutions admitted every native born white male citizen of the United States, with no other qualification but residence, to the elective franchise. The legal constitution required a residence of two years, and the people's a residence of one year. The legal constitution admitted naturalized foreigners who owned a freehold estate of $134 in value; the people's admitted them upon one year's residence.

We believe that the citizens of other States will learn, with surprise and abhorrence, that a party of men, generally, as we believe, orderly and well-disposed, has been organized in Rhode Island, and made to believe, by a few selfish and ambitious leaders, belonging some to one and some to the other of the two political parties, that they are really and truly the majority, and that they have a right by force to usurp the sovereignty of the State, in order to establish a principle conceded by the constituted authorities, and rejected by them, because the boon proceeded from a legal convention, instead of its being the work of their revolutionary hands.

Under the operation of such principles no Government can exist a single year. It is not merely revolution, but revolution after all the objects revolution can achieve have been attained. It is a principle not only subversive of a representative republican Government, but fatal to the continuance of a democracy in any and all its forms of real or fancied perfection.

If a revolution, based upon such principles, should succeed in Rhode Island, the same sure law of force will inevitably prostrate every State Government in the Union; for there is not a State in the Union in which the actual grievances of portions of the people are not quite as numerous and quite as great as those complained of in the State of Rhode Island.

JOHN WHIPPLE,
For the Committee.